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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------------|---------------------|------------------|
| 10/722,041 | 11/24/2003 | Christopher F. Freudenberg | BPL0002/US | 8334 |
| 7590 | 11/02/2006 | | EXAMINER | |
| Mark W. Binder Kagan Binder, PLLC 221 Main Street North, Suite 200 Maple Island Building Stillwater, MN 55082 | | | PUROL, DAVID M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3634 | |
| DATE MAILED: 11/02/2006 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|----------------------------|--------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/722,041 | FREUDENBERG ET AL. |
| | Examiner David M. Purol | Art Unit 3634 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 July 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,6-27 and 29-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,6-27,29-37 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,6-27,29-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwen et al in view Eller et al.

Iwen et al disclose the claimed method including a polymeric film 10 having adhesive 32 which is secured to working and non-working surfaces so as to form an enclosure so as to isolate a space to contain physical material for subsequent removal. Note the discussion in the Background of the Invention in column 1 of Iwen et al which further discloses the claimed method and sets forth the use of individual layers of sheets. While Iwen et al do not specifically disclose the step of applying negative pressure within the enclosed space during the removal step, Eller et al disclose a method of material abatement which utilizes the step of applying a negative pressure 44,46, wherein, to incorporate this teaching into the method of Iwen et al for the explicit purpose of facilitating the removal of material would have been obvious to one ordinary skill in the art. Regarding the claim recitation setting forth the barrier sheets as being in an overlapping relationship, note that Eller et al disclose the use of overlapping sheets 20, accordingly, the feature of overlapping sheets cannot be relied upon for patentability. As to the amount of adhesive employed, one having ordinary skill in the art would have readily recognized that the particular amount of adhesive used for its explicit purpose of securing would have been readily evident and as such this feature cannot be relied upon for patentability.

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2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

3. Applicant's amendment presenting the limitation of the barrier sheets as being in an overlapping relationship necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

4. Any inquiry concerning this communication should be directed to David M. Purol at telephone number (571) 272-6833.


David M. Purol
Primary Examiner
Art Unit 3634

DMP
(571) 272-6833
October 30, 2006